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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,207	11/09/2006	Georg Mayer	800.0105.U1(US)	3196
10948	7590	03/29/2011	EXAMINER	
Harrington & Smith, Attorneys At Law, LLC 4 Research Drive, Suite 202 Shelton, CT 06484			PHAM, TIMOTHY X	
		ART UNIT	PAPER NUMBER	
		2617		
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		03/29/2011		PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/581,207	MAYER ET AL.
	<b>Examiner</b>	Art Unit
	TIMOTHY PHAM	2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1)  Responsive to communication(s) filed on 2/22/2011.
- 2a)  This action is FINAL.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4)  Claim(s) 1,3-11,13,16-19,21-23,34,39,44,46 and 47 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1,3-11,13,16-19,21-23,34,39,44,46 and 47 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some \* c)  None of:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5)  Notice of Informal Patent Application
- 6)  Other: \_\_\_\_\_

**DETAILED ACTION**

**Pre-Appeal Brief**

1. Pre-appeal brief filed 12/21/2010 and now prosecution is hereby reopen.

**Response to Arguments**

2. Applicant's arguments with respect to claims 1, 3-11, 13, 16-19, 21-23, 34, 39, 44, 46-47 have been considered but are moot in view of the new ground(s) of rejection.

**Claim Rejections - 35 USC § 103**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**4. Claims 1, 3-11, 13, 16-19, 21-23, 34, 39, 44, 46-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gabor et al. (hereinafter “Gabor”; US 2004/0203710) in view of Kastelewicz (US 2004/0153667; Cited in PTO-892 Part of Paper No. 20101021).**

Regarding claims 1, 19, 21, 34, and 39, Gabor disclose a method, an apparatus, a system, the method comprising:

receiving at a first network element in a communications network a first message from a user equipment (Fig. 2 step S1; Fig. 3, step S'1; paragraph [0036]; e.g., In step S1, the caller 100 sends an INVITE message to a first CSCF 104);

transmitting the first message from the first network element to a serving network element (Fig. 2 step S2; paragraph [0036]; e.g., The first CSCF 104 sends the INVITE message to a second CSCF 106 in step S2);

detecting at the first network element that the serving network element is out of service (paragraphs [0016], [0042], [0048], [0051]; e.g., detect session failure cases occurring after the 200 OK message is processed at the S-CSCF );

determining at the first network element a type of the first message, wherein determining the type of the first message comprises evaluating content of a predefined information element in the first message (paragraph [0051]; e.g., This procedure will help the other proxies in the path of the session setup to quickly realize that the session setup has failed and thus send the final accounting request indicating unsuccessful session setup (if they have already sent the initial accounting request). This way the CSCFs do not need to wait for timer H to expire in order to cancel the CDRs; it is noted that the process “indicating unsuccessful session setup (if they have

already sent the initial accounting request" characterizes as determining a type of the first message);

in response to detecting at the first network element that the serving network element is out of service and to determining that the type of the first message is a re-registration request, sending from the first network element to the user equipment an error message including an indication that the serving network element is out of service (Fig. 3 step S'9; paragraph [0042]; e.g., The first CSCF may also send a 5xx error response to the caller 100 in step S'9. The 5xx responses are failure responses given when a server itself has erred).

Gabor fails to specifically disclose subsequent to sending the error message to the user equipment, receiving a second message having an initial registration type from the user equipment.

However, Kastlewicz subsequent to sending the error message to the user equipment, receiving a second message having an initial registration type from the user equipment (paragraph [0032]; e.g., Following receipt of the response message SIP 401 UNAUTHORIZED, SIP registration is continued and a second registration message "SIP REGISTER2" is generated by the terminal UE; it is noted that the SIP REGISTER2 is an initial register different from the SIP REGISTER1).

Therefore, taking the teachings of Gabor in combination of Kastlewicz as a whole, it would have been obvious to one having ordinary skill in the art at the time of the invention by applicant to send a further message having an initial registration type to the network element in response to the error message for advantages of enhancing registration performing in a particular

simple manner which means that the resources of the service network are loaded only to a small degree (Kastlewicz: paragraph [0006]).

Regarding claim 3, Gabor in combination of Kastlewicz discloses the method according to claim 1, wherein the second message is configured to initiate a registration from the user equipment to the first network element (Kastlewicz: paragraph [0032]; e.g., SIP REGISTER2).

Therefore, taking the teachings of Gabor in combination of Kastlewicz as a whole, it would have been obvious to one having ordinary skill in the art at the time of the invention by applicant to configure the second message to initiate a registration from the user equipment to the first network element in order to continue establish session using the previously setup session for efficient resources.

Regarding claim 4, Gabor in combination of Kastlewicz discloses the method according to claim 1, wherein a bearer configured to signal is established between the user equipment and the communications network prior to the receiving of the first message (Gabor: paragraph [0027]).

Regarding claim 5, Gabor in combination of Kastlewicz discloses the method according to claim 4, further comprising forwarding the first message to a further serving network element (Gabor: Fig. 2 step S2; paragraph [0036]; e.g., The first CSCF 104 sends the INVITE message to a second CSCF 106 in step S2).

Regarding claim 6, Gabor in combination of Kastlewicz discloses the method according to claim 5, wherein the further serving network element registers the user equipment (Gabor: paragraphs [0006], [0031], [0036]).

Regarding claim 7, Gabor in combination of Kastelewicz discloses the method according to claim 4, wherein the bearer comprises a signalling or general purpose packet data protocol context bearer (Gabor: paragraph [0026]).

Regarding claim 8, Gabor in combination of Kastelewicz discloses the method according to claim 1, wherein the communications network is an internet protocol multimedia subsystem network (Gabor: paragraphs [0005], [0016]; e.g., IMS system).

Regarding claim 9, Gabor in combination of Kastelewicz discloses the method according to claim 1, wherein the first network element comprises an interrogating call session control function (Gabor: paragraph [0027], e.g., CSCF may consist of Proxy, Interrogating and Serving CSCFs).

Regarding claim 10, Gabor in combination of Kastelewicz discloses the method according to claim 1, wherein the first network element comprises a proxy call session control function (Gabor: paragraph [0027], e.g., CSCF may consist of Proxy, Interrogating and Serving CSCFs).

Regarding claim 11, Gabor in combination of Kastelewicz discloses the method according to claim 1, wherein the serving network element comprises a serving call session control function (Gabor: paragraph [0027], e.g., CSCF may consist of Proxy, Interrogating and Serving CSCFs).

Regarding claim 13, Gabor in combination of Kastelewicz discloses the method according to claim 1, wherein the detecting at the first network element that the serving network element is out of service comprises:

at least one of detecting that a predetermined time period has passed since the forwarding of the message from the first network element to the serving network element and before a response has been received from the serving network element, and determining that the first message has been transmitted a predetermined number of times (Gabor: paragraph [0039]; e.g., When either a non-ACK message is received by the second CSCF or time H has expired without an ACK message being received, the session is considered unsuccessful. Thus step S8 is waiting for an ACK signal from the calling party 100 within time H).

Regarding claim 16, Gabor in combination of Kastelewicz discloses the method according to claim 1, wherein the information element indicates that the first message is sent integrity protected (Gabor: paragraphs [0026]-[0027]; e.g., authentication activities).

Regarding claim 17, Gabor in combination of Kastelewicz discloses the method according to claim 1, wherein the information element indicates that a user has been successfully authenticated (Gabor: paragraphs [0026]-[0027]; e.g., authentication activities).

Regarding claim 18, Gabor in combination of Kastelewicz discloses the method according to claim 1, wherein the information element in the first message is an integrity protected flag in an authorization header of the first message (Gabor: paragraph [0052]).

Regarding claim 22, Gabor in combination of Kastelewicz discloses the apparatus according to claim 21, wherein the controller is further configured to establish a bearer configured to signal between the apparatus and a communications network comprising said network element and said serving network element, and respond to the error message by dropping the bearer between the apparatus and the communications network (Gabor: paragraphs

[0031], [0042]; e.g., send a BYE request to the called party 102 which may be before or after step S'10).

Claim 23 is rejected with the same reasons set forth to claim 7.

Claim 46 is rejected with the same reasons set forth to claim 13.

Claims 44 and 47 are drawn to a non-transitory computer readable medium configured to store instructions of a computer program that when executed controls a controller to perform steps of claim 1 above. Therefore, the same rationale applied to claim 1 applies. In addition, Gabor in combination with Kastlewicz inherently discloses a computer program product, i.e., given that Gabor/Kastlewicz disclose a process, the process would be implemented by a processor that requires a computer program product, e.g., a RAM, to function.

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TIMOTHY PHAM whose telephone number is (571)270-7115. The examiner can normally be reached on Monday-Friday, 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne D. Bost can be reached on 571-272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ Timothy Pham/  
Examiner, Art Unit 2617

/PIERRE-LOUIS DESIR/  
Primary Examiner, Art Unit 2617